

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
UNITED STATES OF AMERICA: :
: 1:16-cr-00346 (PAC)
- against - :
: **ORDER**

THOMAS SPROLLING,

Defendant.
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Thomas Sprolling is an inmate at U.S.P. Hazelton. Through counsel, he now renews his motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A). Mot. Compassionate Release, ECF No. 31. Sprolling previously moved *pro se* for compassionate release by letter filed July 29, 2020, citing his health and concerns about COVID-19. Letter 1–2, ECF No. 25. But prior to filing a motion for compassionate release in federal court, a defendant must either “fully exhaust[] all administrative rights to appeal [the Bureau of Prisons’ (‘BOP’)] failure to bring a motion on the defendant’s behalf” or wait for “the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier.” § 3582(c)(1)(A). Responding to Sprolling’s July 29 motion, the Government submitted that the BOP had no record showing that Sprolling requested compassionate release from his warden prior to filing his motion with the Court. Letter Opp’n 1, 6, ECF No. 26. Thus, on August 19, 2020, the Court denied Sprolling’s motion, without prejudice, as premature. Order 2, ECF No. 27.

Sprolling wrote the next day to assure the Court that he had requested release from his warden. Letter 1–2, ECF No. 28. The Court responded on August 21, 2020 by appointing Richard Palma (“Defense Counsel”) to represent Sprolling. Order 1, ECF No. 29. On December 3, 2020, Defense Counsel filed a renewed motion for compassionate release, which is presently

before the Court. Mot. Compassionate Release, ECF No. 31. But this motion, too, is denied as premature.

Defense Counsel submits that Sprolling requested compassionate release from his warden “[o]n or about September 30, 2020,” but provides no proof of that. *Id.* at 2. Rather, Defense Counsel states: “[D]espite my efforts to contact him by letters dated September 28 and November 10, 2020, Mr. Sprolling has not communicated with me.” *Id.* at 1 n.1. Absent further explanation, the Court does not see how Defense Counsel could know that Sprolling submitted a request on or about September 30 if he has not communicated with Sprolling. The Government, meanwhile, again submits that BOP has no record of any such request. Resp. Opp’n 1, ECF No. 32.

As the Court previously explained, a motion for compassionate release is ripe for decision only after a defendant has requested release from the warden of his facility. Order at 1 n.1, ECF No. 27. Because the Court has no evidence that Sprolling requested compassionate release from his warden, his renewed motion is again denied as premature without prejudice to its renewal after Sprolling has exhausted his administrative remedies. *See United States v. Sanders*, No. 17-cr-456 (RA), 2020 WL 6273906, at *2 (S.D.N.Y. Oct. 26, 2020) (“According to the Government, moreover, ‘FCI Hazelton has no record of [the defendant] making a compassionate release request.’ . . . Absent any evidence that [the defendant] pursued that avenue for relief, the Court will not ‘bypass the administrative process and decide the merits of a claim that Congress clearly intended should start, in the first instance, with the BOP.’”) (citations omitted).

The Court makes no factual findings with respect to the grounds Sprolling offers to justify compassionate release, nor does it reach any legal conclusions regarding them. Sprolling may renew his motion after submitting a request for compassionate release to his warden and providing the Court with evidence of that request.

Dated: New York, New York
March 16, 2021

SO ORDERED

A handwritten signature in black ink, appearing to read "Paul A. Crotty", is written over a horizontal line.

HONORABLE PAUL A. CROTTY
United States District Judge